



U.S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

May 16, 2007

The Honorable Patrick Leahy
Chairman
Committee on the Judiciary
United States Senate
Washington, DC 20510

Dear Mr. Chairman:

This responds to the Committee's subpoena, dated May 2, 2007, for e-mails and their attachments to, from, or copied to Karl Rove relating to the Committee's oversight investigation about the removal of United States Attorneys and related issues.

In response to your subpoena, the Department's Office of Information and Privacy (OIP) conducted e-mail searches in both the Offices of the Attorney General and Deputy Attorney General. The time period covered by the search was November 1, 2004, through May 2, 2007. OIP identified a total of sixteen custodians whose available e-mail archives were searched in response to this subpoena. Those individuals had served in the following positions during the relevant time period: Chief of Staff, Deputy Chief of Staff, and White House Liaison in the Office of the Attorney General, and Deputy Attorney General, Principal Deputy Attorney General, and Chief of Staff in the Office of the Deputy Attorney General. The search terms used were designed to capture any variation of an e-mail address that may have been used by Karl Rove. Specifically, the terms were: Rove, Karl, kr, gwb43.com, georgewbush.com, and mnchq.org. Both the "from" and "to" fields were searched in current and archived e-mail accounts. The "to" field captured "cc's." In addition, the current Chief of Staff to the Attorney General, and the Interim Chief of Staff who assumed that position after Kyle Sampson left, were both asked whether they had ever communicated with Karl Rove and both advised that they had not. The e-mail accounts for the sixteen other custodians were all searched by the staff of OIP and we are continuing to review the completeness of our efforts with regard to those custodians.

OIP's search identified two identical e-mail chains, one in Kyle Sampson's e-mail account and the other in Courtney Elwood's account, that are responsive to the subpoena. Both documents are enclosed, without redaction.

In response to your subpoena, the Office of Special Counsel Patrick Fitzgerald also conducted a search using the same search terms referenced above and we have been advised that this effort did not identify any responsive documents. Mr. Fitzgerald noted that his Office did not obtain all of Mr. Rove's e-mails, but rather obtained access to his electronic media for the purpose of searching for documents responsive to search terms relevant to his investigation. Only records responsive to Mr. Fitzgerald's investigative search terms were retained by his Office and none of those records are responsive to the Committee's subpoena. The electronic media was returned to Mr. Rove's counsel, Mr. Robert Luskin, in a sealed condition.

We are continuing to search for documents responsive to the Committee's subpoena and remain available to confer with Committee staff about your needs in connection with this matter. Please do not hesitate to contact this office if you would like to discuss it further.

Sincerely,

A handwritten signature in black ink that reads "Richard A. Hertling". The signature is written in a cursive style with a large, stylized initial "R".

Richard A. Hertling
Principal Deputy Assistant Attorney General

cc: The Honorable Arlen Specter
Ranking Minority Member

Elwood, Courtney

From: Jennings, Jeffery S. [Jeffery_S._Jennings@who.eop.gov]
Sent: Wednesday, February 28, 2007 1:21 PM
To: Jennings, Jeffery S.; KR@georgewbush.com; Fielding, Fred F.; Sullivan, Kevin F.; Perino, Dana M.; Sampson, Kyle; Mamo, Jeanie S.; Oprison, Christopher G.; Elwood, Courtney
Cc: Sara Taylor
Subject: RE: NM USATTY - urgent issue

McClatchy New Service

Political interference alleged in sacking of a U.S. attorney

By Marisa Taylor
McClatchy Newspapers

WASHINGTON - The U.S. attorney from New Mexico who was recently fired by the Bush administration said Wednesday that he believes he was forced out because he refused to rush an indictment in an ongoing probe of local Democrats a month before November's Congressional elections.

David Iglesias said two members of Congress separately called in mid October to inquire about the timing of an ongoing probe of a kickback scheme and appeared eager for an indictment to be issued on the eve of the elections in order to benefit the Republicans. He refused to name the members of Congress because he said he feared retaliation.

Two months later, on Dec. 7, Iglesias became one of six U.S. attorneys ordered to step down for what administration officials have termed "performance-related issues." Two other U.S. attorneys also have been asked to resign.

Iglesias, who received a positive performance review before he was fired, said he suspected he was forced out because of his refusal to be pressured to hand down an indictment in the ongoing probe.

"I believe that because I didn't play ball, so to speak, I was asked to resign," said Iglesias, who officially stepped down Wednesday.

Iglesias acknowledged that he had no proof that the pressure from the Congress members prompted his forced resignation. But he said the contact in of itself violated one of the most important tenants of a U.S. attorney's office: Don't mix politics with prosecutions.

U.S. attorneys are appointed by the president in a political process that includes Senate confirmation. But as soon as they assume office they are expected to refrain from being politically active and to resist the urge to allow their political leanings to affect the outcome

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of a case.

Democrats have described the mid-term firings of the Republican-appointed U.S. attorneys as unprecedented and questioned whether the firings were politically motivated to root out moderates and install candidates loyal to the administration.

Justice department officials have defended the firings as legitimate administrative decisions meant to improve the workings of the Justice Department. Deputy Attorney General Paul McNulty told the Senate that most of the forced resignations were motivated by "performance-related" reasons.

Iglesias' allegation raises new questions about the nature of the firings and seems to undermine the theory that the administration only singled out moderate Republicans. Iglesias, a former military lawyer whose work helped inspired the Tom Cruise character in a "Few Good Men," describes himself as a social conservative who strove to loyally implement the administration's policies. Iglesias also was the first Hispanic to serve as U.S. attorney in his state in decades.

"I represent three huge voting blocks of the Republican party," he said. "I don't know why they would let someone go with those political credentials who has demonstratively done a good job."

Iglesias said the two members of Congress not only contacted him directly but also proceeded to try to wrest details about the case from him. Iglesias would not comment on the case to McClatchy, but the local media has reported on aspects of the ongoing investigation, including allegations that a former Democratic state senator took money to ensure an \$82 million courthouse contract would go to specific company.

Congressional questions about ongoing cases are supposed to go through a special office within the Justice Department to avoid the appearance of impropriety. Corruption cases in particular are treated as especially sensitive.

"I was appalled by the inappropriateness of those contacts," Iglesias said of the calls.

Iglesias said they called during the lead up to the Congressional elections that gave the Democrats control of the House and Senate. The Republican Party loss was blamed in part on several ongoing criminal corruption cases against Republican members of Congress.

Jude McCartin, a spokeswoman for New Mexico's Democratic Senator Jeff Bingaman, said she had not heard of the allegations and could not comment on them.

"It wasn't us - that's all I can say," she said.

Bingaman worked with Iglesias on crafting certain legislation, but McCartin said Bingaman

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would never attempt to push an ongoing case for political purposes.

"U.S. attorneys have a job to do and he does not want to interfere," she said. "He's a senator and his job is to craft legislation, not involve himself in ongoing cases."

Other members of the New Mexico delegation could not be immediately reached for comment.

Senator Pete Domenici was not facing re-election, but the state's two other Republicans, U.S. Representatives Heather Wilson and Steve Pearce were up for election. Both won, but Wilson beat her opponent by 875 votes out of nearly 211,000.

Local media reports had speculated that Iglesias' office might issue an indictment before the elections.

But Iglesias said he refused to tell the members of Congress when it would be issued, although he had decided the investigation needed more time.

"You never rush any case to trial, especially political corruption cases," he said. "There is always the charge that the real basis of the prosecutions is politics and you want to avoid that."

He said he now regrets that he did not report the calls to the Justice Department as required by policy.

"I thought it would blow over," he said. "But I was wrong."

In the last several weeks, other U.S. attorneys have spoken out against the administration to dispute that they were fired because of the way they handled their job.

The administration has only acknowledged that politics played a part in the firing of former U.S. Attorney Bud Cummins in Little Rock Arkansas. In his case, officials have said he was removed to make way for Tim Griffin, a former aide to Rove. Griffin has since said he will not seek Senate confirmation because of the controversy.

The firings have put Justice Department officials in the unusual position of having to defend the ouster of Republican-appointees against Democratic criticism.

Similar to six other U.S. attorneys, Iglesias said when he was called and fired December 7, he was not given any reason other than that said the order "came from on high."

Iglesias and several other U.S. attorneys have been contacted by the House's Subcommittee on Commercial and Administrative Law about possibly testifying before Congress on the firings. Iglesias said would only testify if he were subpoenaed.

U.S. Attorney Daniel Bogden, who also stepped down Wednesday after being asked to leave in December, said he had no idea why he was asked to resign.

Like Iglesias, he received a positive performance evaluation. But unlike him, he said he never clashed with elected officials about an ongoing investigation. Bogden, a prosecutor with more than 16 years of experience, prosecuted county officials in a case connected to a San Diego indictment of several local elected officials. Carol Lam, the U.S. attorney in San Diego, was also asked to step down in December.

"As an office we thought we were functioning at a very high level," Bogden said. "You would think that if you're doing the job you should be doing you should remain in your place."

Last week, the Wall Street journal reported the FBI was investigating allegations whether Nevada Governor Jim Gibbons performed any official acts on behalf of a contract in exchange for gifts or payments. Gibbons, a Republican, has denied any wrongdoing.

Bogden said he hoped that the ongoing case did not have anything to do with his ouster, although critics of the administration have raised questions.

"You would like to think that the reason you're put in the position as U.S. attorney is because you're willing to step up to the plate and take on big cases," Bogden said. "It's not a good thing if you begin to wonder whether you'll lose your job if you pursue them."

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Cc: 'Sara Taylor'
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Importance: High

I just received a telephone call from Steve Bell, Sen. Domenici's CoS, who urgently reported the following:

1. Outgoing USATTY David Iglesias is holding a press conference at 11:30 Eastern this morning.
2. He is allegedly going to say that he was contacted by two Members of Congress last Fall regarding the investigation into the courthouse construction corruption case. Information on this is in the following article: <http://www.abqtrib.com/news/2006/dec/19/federal-attorney-plans-step-down-iglesias-investig/>
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4. He is allegedly going to link these phone calls with the current news – saying that he believes this ultimately led to his being asked to resign by DOJ.

Bell said Domenici's idea is not to respond, and hopefully make this a one day story. They have already been contacted by McClatchey. Unfortunately, I do not think that they can make an allegation such as this go away so easily. They have not confirmed to the reporter they were one of the Members.

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I am available to discuss further – clearly, once this happens in Albuquerque the reporters will be asking DoJ and the White House

J. Scott Jennings
Special Assistant to the President and
Deputy Director, Office of Political Affairs
(202) 456-5275

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Deputy Director, Office of Political Affairs
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